

OCT 08 2003

#15 DAF \$

DOCKET NO.: ALZA-0022 (ARC-2865-R3)

PATENT



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:

Geerke, et al.

Confirmation No.: 1409

Application No.: 09/324,343

Group Art Unit: 1617

Filing Date: June 2, 1999

Examiner: Shahnam J. Sharareh

For: Methods and Apparatus For Determining Formulation Orientation Of Multi-Layered Pharmaceutical Dosage Forms

EXPRESS MAIL LABEL NO: EL 970385355 US

DATE OF DEPOSIT: October 7, 2003

EL970385355US

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT  
ABANDONED UNINTENTIONALLY UNDER 37 CFR § 1.137(b)**

The above-identified application became abandoned for failure to file a timely and proper reply to the Office Action mailed on March 31, 2001, which set a 3 month/day period for reply. The date of abandonment is the day after the expiration date of the period set for reply in the Office Notice or Action plus any extensions of time obtained therefore.

**APPLICANT(S) HEREBY PETITIONS FOR THE REVIVAL OF THIS  
APPLICATION**

Petition fee (37 CFR § 1.17m):

- ☐ Small Business entity - fee \$665.00
- ☐ Applicant(s) has previously claimed small entity status under 37 CFR § 1.27.
- ☐ Applicant(s) by its/their undersigned attorney claims small entity status under 37 CFR § 1.27 as:

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OFFICE OF PETITIONS

DOCKET NO.: ALZA-0022 (ARC-2865-R3)- 2 -

PATENT

- ☐ an Independent Inventor
- ☐ a Small Business Concern
- ☐ a Nonprofit Organization
- ☐ Other than a Small Business entity - fee \$1,330.00.

Reply and/or fee:

The reply to the above-noted Office Action

- ☐ in the form of \_\_\_\_\_ was previously filed on \_\_\_\_\_
- ☒ is enclosed herewith.

The Issue Fee of \$       .00

- ☐ was previously paid on \_\_\_\_\_
- ☐ is enclosed herewith.

Terminal disclaimer with disclaimer fee:

- ☐ Since this utility application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer and disclaimer fee (37 CFR § 1.20(d)) disclaiming a period equivalent to the period of abandonment is enclosed herewith. (See PTO/SB/63)

### STATEMENT

The entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR § 1.137(b) was unintentional. Applicants hereby attach further information concerning the cause of the abandonment.

Payment of fee(s):

- ☒ A check in the amount of \$2,100.00 is attached. Please charge any deficiency or credit any overpayment to Deposit Account No. 23-3050.
- ☐ Please charge Deposit Account No. 23-3050 in the amount of \$       .00. This sheet is attached in duplicate.

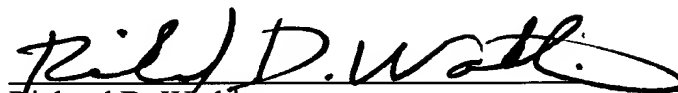
DOCKET NO.: ALZA-0022 (ARC-2865-R3)- 3 -

PATENT

- ☒ The Commission is hereby authorized to charge payment of the above fees associated with this communication or credit any overpayment to Deposit Account No. 23-3050. This sheet is attached in duplicate.
- ☒ This Petition is enclosed in duplicate.

Date:

October 7, 2003



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THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:

Geerke, et al.

Application No.: 09/324,343

Filing Date: 06/02/99

For: METHODS AND APPARATUS FOR DETERMINING FORMULATION  
ORIENTATION OF MULTI-LAYERED PHARMACEUTICAL DOSAGE FORMS

Confirmation No.: 1409

Group Art Unit: 1617

Examiner: Shahnam J. Sharareh

EXPRESS MAIL LABEL NO: *EL 970385355*  
DATE OF DEPOSIT: *October 7, 2003*

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Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT  
ABANDONED UNINTENTIONALLY UNDER 37 CFR § 1.137(b)**

Petitioners respectfully petition that the above-identified patent application, which became abandoned for failure to file a complete reply to the Office Action dated March 13, 2001, be revived under 37 C.F.R. §1.137(b) because the failure to fully respond was unintentional.

The March 13, 2001, Office Action rejected pending claims 18-31. On June 5, 2001, applicants attorney of record filed a Notice of Appeal with respect to this rejection. On March 27, 2002, the PTO appears to have mailed a Notice of Abandonment along with an interview summary of a telephonic interview held on March 20, 2002, between a patent examiner and Applicants' attorney of record at the time, Paul B. Simboli of the ALZA Corporation patent department, regarding the status of the response to the March 13, 2001, Office Action.

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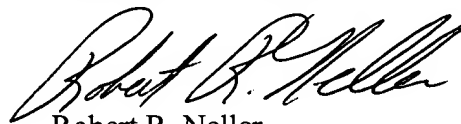
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Although it is not clear to Applicants what was discussed during the interview (in part, because ALZA no longer employs Mr. Simboli), Applicants submit that their delay in filing a substantive response to the Office Action was unintentional and caused, in large part, by the acquisition of ALZA by Johnson & Johnson during the relevant time period and the upheaval that this acquisition caused. The acquisition, for example, took place in June, 2001, and the ALZA docketing system was taken off-line during January and February, 2002, in favor of the docketing system used by Johnson & Johnson. ALZA patent applications were finally incorporated into the Johnson & Johnson system in July and August, 2002.

Responsibility for the instant patent application (as well as a significant number of other patent applications) was formally transferred from Mr. Simboli to the undersigned in December, 2002-February, 2003. Responsibility for many of these patent applications (including the instant application) was then transferred to outside counsel in the Spring of 2003, and then incorporated into yet another docketing system. It was after this final transfer that a member of the Johnson & Johnson patent department discovered that the instant application had gone abandoned.

In view of the foregoing, Applicants respectfully request that the Petition for Revival of Application for Patent Abandoned Unintentionally be granted under 37 C.F.R. § 1.137(b), and that the response to the Final Rejection be entered.

Respectfully submitted,



Robert R. Neller  
Registration No. 46,950

Date: September 12, 2003